

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOHN MALIZIA, *et al.*,

Plaintiffs,

-vs.-

FCA US LLC

Defendant.

Case No.: 1:17-cv-07039-AKH

**FCA US LLC'S MOTION FOR LEAVE TO FILE SUR-REPLY IN SUPPORT
OF ITS MOTION TO ENFORCE ORDER OF AUGUST 29, 2018
AND OPPOSITION TO CROSS MOTION FOR SANCTIONS**

Defendant FCA US LLC ("FCA US") respectfully moves this Court for leave to file a short 2 ½-page sur-reply responding to Plaintiffs' Reply Memorandum of Law in Support of Their Cross Motion for a Revised Order for Vehicle Inspection, for Sanctions and for Revocation of *Pro Hac Vice* Admissions of Counsel for Defendant, ECF #87 ("Reply"). A copy of the proposed sur-reply is attached hereto as Exhibit A. Leave is appropriate because Plaintiffs make accusations and misrepresentations in their Reply brief that FCA US should, in fairness, be allowed to address.

SUGGESTIONS IN SUPPORT

Courts grant leave to file sur-replies where necessary to correct misrepresentations in another party's briefing. *See, e.g., Weinstein v. Islamic Republic of Iran*, 624 F. Supp. 2d 272, 273 n.1 (E.D.N.Y. 2009), *aff'd*, 609 F.3d 43 (2d Cir. 2010) (granting leave to file a sur-reply where it was sought to "correct a misstatement" in reply papers). Here, the Court should grant FCA US leave to file a sur-reply to respond to the accusations and misrepresentations in

Plaintiffs' Reply. Allowing FCA US to respond via a sur-reply is particularly warranted here because the accusations and misrepresentations are made in an attempt to get this Court to revoke the *pro hac vice* status of FCA US's counsel of choice. In ruling on such a request, the Court should have the benefit of full and correct information.

Defendant FCA US LLC respectfully requests that this Court grant it leave to file the attached sur-reply responding to Plaintiffs' Reply Memorandum of Law in Support of Their Cross Motion for a Revised Order for Vehicle Inspection, for Sanctions and of *Pro Hac Vice* Admissions of Counsel for Defendant, ECF #87.

Dated: November 21, 2018

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CERTIFICATE OF SERVICE

The undersigned certifies that on this 21st day of November, 2018, a copy of foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ James S. Coons